Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	CC Docket No. 93-22
Policies and Rules Implementing	)	RM-7990
the Telephone Disclosure and	)	
Dispute Resolution Act	)	

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

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April 19, 1993

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Summary

In instances where a customer involuntarily consents to a call being transferred to a pay-per-call 900 number, that type of "presubscription arrangement" with the service provider should be covered by the proposed pay-per-call rules.

Designating all pay-per-call service access codes to a 900 number has the obvious advantage of number uniformity and customer recognition. But, reassigning all 700 service access codes to the 900 number, and assigning a new office code for intrastate pay-per-calls may engender technical difficulties and service disruptions unknown at this time.

Current network capabilities will not be able to provide per-call blocking. As it now stands, 900 service blocking is still an all-or-nothing proposition. Blocking should be reviewed as technically feasible only when it can be achieved without significant new capital investment, and where any expense incurred is modest and would not affect a carrier's network planning and development process.

The Commission's disclosure and dissemination of pay-per-call rules appear to duplicate may of the same provisions contemplated by the Federal Trade Commission (FTC). To avoid redundancy and undue burden on exchange carriers having to comply with both sets of regulations, the disclosure requirements from both commissions need to be harmonized.

In almost all cases, the local exchange carrier who bills for the call will have little

or no direct interaction with the 900 service vendor. The Commission should take into consideration the FTC's multiple-entity concept when promulgating its own disclosure rules.

Each state jurisdiction has different rules governing solicitations by charitable institutions. Local exchange carriers should not be responsible for deciding who is eligible and whether they meet state requirements.

It would appear that the proposed pay-per-call rules could apply to dial-up data service and other information retrieval data services. The same rules should not apply to data transport services such as packet-switching and frame relay.

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COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) respectfully submits these comments pursuant to the Commission's Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) released on March 10, 1993 in the above-referenced proceeding.[1]

The Commission stated that in recent years, the proliferation of 900 pay-per-call services (900 services) has given rise to large numbers of consumer complaints regarding various practices associated with the services. On October 28, 1992, the Telephone Disclosure and Dispute Resolution Act (TDDRA) was signed into law.[2] The statute requires the Commission, as well as the Federal Trade Commission (FTC) to adopt

Below, USTA offers it comments to the issues raised by the Commission in both

that the call will be transferred to a pay-per-call number, and thus consents to the call transfer. In that case, the customer has technically entered into a "presubscription arrangement" with the service provider, albeit involuntarily. The Commission's proposed 900 pay-per-call rules should apply in that instance to curb abuses by service providers.

II. NUMBERING ISSUES

The TDDRA requires that any services falling within the statutory definition of 900 pay-per-call "be offered only through the use of certain telephone number prefixes and area codes which are to be designated by the Commission." 47 U.S.C. § 228(b)(5) and (c)(2). The Commission tentatively concluded that consumers' interests would be best served by requiring that 900 be the only service access code that may be used for interstate pay-per-call services. Parties are also asked to comment on the feasibility of reassigning all interstate pay-per-call services currently using a 700 service access code to the 900 number. The Commission inquired whether public interest would also support a requirement that intrastate pay-per-call programs be assigned to certain designated office codes.[5]

While designating all pay-per-call service access codes to a 900 number has the obvious advantage of number uniformity and customer recognition, reassigning all 700 service access codes to the 900 number, and assigning a new office code for intrastate pay-per-call may engender technical difficulties and service disruptions unknown at this

[5] NPRM at ¶¶ 13-19.

time. USTA understands that the carrier industry has formed a work group (the 555 Line Code Workshop) to study this very issue. If a recommended decision is reached by the time reply comments are due, USTA will be pleased to discuss them in its reply.

now stands, 900 service blocking is still an all-or-nothing proposition.

USTA submits that the term "technical feasibility" needs clarification. Blocking should be viewed as technically feasible only when it can be achieved without significant new capital investment, and where any expense incurred is modest and would not significantly affect a carrier's network planning and development processes. In any event, carriers should be able to recover in their rates any additional costs incurred

interexchange carrier customer through tariffed access rates.[8]

Disclosure of Per-Pay-Call Information

Section 64.712 of the Commission's rules, 47 C.F.R. § 64.712, currently requires carriers providing interstate transmission for pay-per-call services to provide to consumers, upon request and free of charge, the name, address, and customer service telephone number of any information providers. Section 228(c)(2) of the TDDRA imposes additional disclosure requirements on common carriers who assign numbers for pay-per-call purposes. 47 U.S.C. § 228(c)(2). The Commission seeks comments as to whether common carriers should be required to make additional categories of pay-per-call information available to requesters or take steps beyond those set forth in the proposed rule § 64.1509.[9]

Title I of the TDDRA directs the Commission to prescribe regulations establishing requirements for common carriers offering pay-per-call services. Title II and III of the TDDRA direct the Federal Trade Commission (FTC) to prescribe regulations governing the advertising and operation of pay-per-call services, as well as billing and collection procedures for such services. In certain respects, the Commission's proposed rule § 64.1509 duplicates those regulations contemplated by the FTC. One major difference is that the Commission's proposed rule § 64.1509 places the burden of disclosure and dissemination on common carriers who assign numbers for the service, while the FTC's

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[8] See USTA's April 24, 1991 comments filed in CC Docket No. 91-65, Policies and Rules Concerning Interstate 900 Telecommunications Services, at 3-5.

[9] NPRM at ¶¶ 32-35.

proposed rules place the burden on the service provider itself.[10]

Under the FTC's proposed disclosure rule § 308.5(h)(i)(1) and (2), the provider of pay-per-call services shall (1) ensure that any billing statement displays any charges for the services in a portion of the consumer's bill that is identified as not being related to local and long distance telephone charges; and (2) for each charge so displayed, specify the type of service, the amount of the charge, and the date, time, and duration of the call. The FTC also proposed to require in rule § 308.7(n)(i) that a billing entity mail or deliver a notice of billing error rights to the consumer with the first billing statement for a telephone-billed purchase and thereafter once per calendar year. These FTC provisions appear to duplicate much of the Commission's own proposals in rule § 64.1509. To avoid redundancy and undue burden on exchange carriers having to comply with both sets of regulations, USTA suggests that the Commission's and the FTC's disclosure requirements need to be harmonized. The Commission should also decide whether it is logical – or indeed feasible – for carriers who merely assign telephone numbers to comply with extensive disclosure requirements, given the fact that local exchange carriers may only have minimal involvement in the provision of 900 services.

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[10] See Proposed Telephone Disclosure Rule 16 CFR Part 308, Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispoute Resolution Act of 1992, FTC File No. R311011, Fed. Reg. Vol. 58, No. 45, rel. March 10, 1993.

V. BILLING AND COLLECTION

The Commission asked for comments on two issues relating to billing and collection. First, the Commission asked if a prohibition should be imposed against carrier billing for any interstate collect calls that offer or initiate audiotext or simultaneous voice conversation programs. Second, the Commission asked if any additional information should be included in telephone bills to supplement the statutory requirements.[11]

Collect calls that offer access to audiotext services using an 800 number or a simultaneous computer tone are abusive practices and should not be condoned. The Commission should expressly prohibit such practices. For billing purposes, the exchange carriers are not able to distinguish between an ordinary 900 call, a collect 900 call, and a "reverse" 800 call because they lack the technical capability to screen them.

The FTC has proposed extensive compliance rules for billing and collection.[12] It correctly recognized that, in some cases, there are multiple billing entites involved in a single 900 call. In that instance, the FTC proposed that only one set of disclosures need be given, and the billing entities should agree among themselves which entity must comply with the FTC's requirements concerning billing errors.[13]

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[11] NPRM at ¶¶ 36 and 37.

[12] See FTC proposed rules subsections 308.7(o) and 308.7(d).

[13] See § 308.7(o).

In its filed comments, USTA fully supported the multiple-entity concept.[14] In practice, the LECs do not handle all inquiries related to the substance of a 900 call. They process a 900 call by sending it through a screen at its switch, and then route the call for handling to the carrier who is responsible for the three-digit NXX code immediately after the 900 indicator. In almost all cases, the LEC who bills for the call will have little or no direct interaction with the 900 service vendor. Thus, although the LEC may be properly responsible for some aspects under the rule, other entities should carry the obligations that fit their specific responsibilities.[15] USTA asks that the Commission take into consideration the FTC's rules on billing and collection when promulgating its own rules.[16]

responsible for assigning intrastate 900 numbers only and their involvement with the delivery of the 900 services which are predominantly interstate in nature, is minimal. As such, USTA questions whether the LECs should be responsible for a customer's charitable status at all. Indeed, it would be an overwhelming burden for carriers to perform such a police function if they are held responsible. Furthermore, they are certainly not equipped to handle it.

VII. APPLICATION OF PAY-PER-CALL REGULATIONS TO DATA SERVICES

In the Notice of Inquiry section, the Commission asked whether the proposed regulations should be extended to cover data services.[18]

The provision of pay-per-call services is rapidly outgrowing the basic telephone network, and the services are being offered through other communications technologies such as wireless cellular. USTA has advised the FTC to amend its proposed rule ¶ 308.6 that refers to "telephone" service, and replace that term with "telecommunications."[19]

It would appear that the proposed pay-per-call rules could apply to dial-up data service (e.g. stock quotes and jokes) and other information retrieval data services. USTA does not believe that the same rules could equally apply to data transport services such as packet-switching and frame relay. The Commission should clarify what type of "data" services it proposes to cover.

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[18] NOI at ¶ 47.

[19] See USTA's comments to the FTC at 12.

VIII. CONCLUSION

In light of the foreging, USTA respectfully requests that its recommendations herein be accepted.

Respectfully submitted,

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April 19, 1993

Before the
FEDERAL TRADE COMMISSION
Washington, D.C.

Proposed Telephone Disclosure Rule 16 CFR Part 308	)	FTC File No. R311011
Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	)	

COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA) is the principal national trade association of the local telephone industry. Local telephone companies, also called local exchange carriers, provide most of the nation's local telephone access lines. USTA's membership includes over 1,000 such companies, who together offer about 99% of the nation's local telephone lines. USTA's members range in size from the individual Bell and GTE telephone operating companies, to companies with fewer than 50 telephone lines. The overwhelming majority of local telephone companies are small telephone companies with fewer than 10,000 telephone lines.

The rule proposed by the FTC draws on Congressional intent evident in the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to protect consumers in the 900 pay-per-call area. The FTC rule is not sui generis. In 1991, the Federal Communications Commission (FCC) initiated a rulemaking that was designed to achieve many of the same ends of the 1992 statute. The FCC put rules in place

prior to the enactment of TDDRA that will be largely superseded when TDDRA is implemented. USTA is pleased with the way in which the proposed rule has been developed and endorses it in most respects. A careful reading of the proposed rule appears to take into account most of the difficult problems in addressing 900 pay-per-call services, and provides a reasonable resolution of them in a way that does not disadvantage local telephone companies. These comments suggest ways to assure that implementation will be constructive.

The local telephone companies often are perceived to be the primary billing entities for 900 pay-per-call services. However, there are two points that are important for the Commission to recognize in dealing with 900 pay-per-call billing. First, not all local telephone companies bill for 900 pay-per-call services. While most local telephone companies do engage in 900 pay-per-call billing, there are a number of small telephone companies who do not do so, or who use others to do all or part of their billing. Second, there are many other businesses - not just local telephone companies - who bill for 900 pay-per-call services. That number is growing all the time. Thus, many credit card issuers, debit card issuers, long distance telephone companies, 900 service bureaus and 900 pay-per-call providers now bill for 900 pay-per-call services. And, as the Commission correctly recognizes, in some cases there are multiple billing entities, as those entities are envisioned by the rules proposed here. Thus, one of the basic parts of the Commission's regulatory framework outlined in the NPRM correctly defines "billing entities" in such a way as to accommodate all

of these various businesses. In addition, from USTA's standpoint, the Commission has included a very constructive provision that addresses the reality that more than one business can be a billing entity for a single 900 call.

Local telephone companies also are often perceived by customers to have affiliations with 900 pay-per-call providers (vendors and service bureaus) when such affiliations do not exist. The local telephone companies do not want to be forced into affiliations that they do not want, or to be placed into a position with their customers that might detrimentally affect the customers' perceptions of their local telephone company. Until now, that concern has been able to be addressed by the companies

fundamental nature of the service offerings, and most advertising issues, are not of primary moment to USTA here.

I. MAJOR CONCERNS.

A. USTA Applauds the Commission's Proposed Rule Subsection 308.7(o) As An Effective Means By Which All or Part of Compliance Responsibility in Multiple Billing Entity Situations Can Be Assigned by Agreement to Individual Billing Entities So Long As the Customer Remains Protected.

The Commission has proposed a rule that would address the presence of more than one billing entity in the processing of a telephone billed purchase. Proposed subsection 308.7(o) provides that where such a purchase occurs

> .... only one set of disclosures need be given, and the billing entities shall agree among themselves which billing entity must comply with the requirements that this regulation imposes on any or all of them. The billing entity designated to receive and respond to billing errors shall remain the only billing entity responsible for complying with the terms of §308.7(d).

Subsection 308.7(o) allows multiple billing entities to divide their responsibilities according to how they operate and interact with the consumer and each other, so long as the consumer is afforded the protections contemplated by the TDDRA and the rules. The Commission, in proposing §308.7(o), correctly recognizes that multiple billing entities should not be subject to an all-or-nothing approach to handling billing disputes. (This matter is also implicated in some of the discussion in the next part of these comments.)

USTA applauds the concept behind this part of the proposed rule and strongly endorses it. It can resolve a difficult issue in a way that will serve the customer well. From the perspective of the local telephone companies, this subsection can eliminate confusion on the part of billing entities and customers, reduce administrative costs and give billing entities flexibility to negotiate appropriate and responsive billing dispute resolution procedures. Ultimately, it will lead to a more satisfied consumer.

In practice, the local telephone companies do not handle all inquiries related to the substance of a 900 call. Many do not handle any. The local telephone company processes a 900 call by sending it through a screen at its switch, and then routing the call for handling to the carrier who is responsible for the three-digit NXX code immediately after the 900 indicator itself. In almost all cases, the local telephone company who bills for the call will have little or no direct interaction with the vendor of the 900 service. Thus, although a local telephone company may be properly responsible for some obligations of a "billing entity" under the rule, it may be best to have other billing entities carry the obligations that fit their specific responsibilities.

The best way to reconcile these rules with business operations is to encourage multiple billing entities to define by agreement their respective roles vis-a-vis one another and the consumer, to avoid duplication or gaps. Contractual flexibility is an extremely positive alternative in the proposed rule.

The Commission's proposal is a welcome solution because it recognizes business reality and harnesses it to encourage prompt and cost-effective dispute resolution. USTA believes it will work to everyone's benefit. USTA also agrees with those aspects of the proposed rule that provide for a customer to be made aware of the identity of the billing entity who will be responsible for resolution of the dispute, and for tying the timetables set out in proposed rule 308.7(d) to the notices.

B. The Commission Should Ease the Dispute Resolution Burdens that Can be Triggered by Oral Notification.

Proposed rule §308.7(c) and §308.7(d) set out a procedure under which a billing entity that receives notice of a billing error described in §308.7(b) shall take certain specified action designed to resolve the dispute.

In general, a billing entity has the option to require written notice of a billing error, or to permit oral notice as an alternative to written notice. However, a special situation prevails for the local telephone companies.

The current procedures utilized by most local telephone companies do not demand that their customers reduce every billing complaint to writing. To be sure, the fact of written notice would provide a paper trail to confirm compliance by a customer with the triggering steps anticipated by billing dispute rules, and would show that a billing entity response is necessary. However, local telephone companies have traditionally responded to oral notifications from customers related to billing

questions, whether related to 900 pay-per-call services or other telecommunications services. They have not typically demanded any writing from their local residential customers as a precondition to a response. The current business procedures of local telephone companies work, and they should be allowed to continue.

The primary reason that local telephone companies have permitted oral notification is that they have a service commitment to customers with whom they interact often, usually on a local basis, and with whom they expect to work on a long-term basis. Local telephone company customers tend to remain customers for long periods, and the companies have found that it is simply good business to be responsive within the bounds of their organizational limitations and business practices.

In addition, the fact that the business itself is a telecommunications business encourages use of the telephone network, rather than the mail, to address billing disputes. The customer has a local number for contacting the telephone company business office, and the local telephone company reduces its costs by dealing with

Absent unique new impacts, local telephone companies are unlikely to change their procedures significantly to field billing error questions from customers over 900 pay-per-call services, except of course to incorporate those changes needed to comply with the rule finally adopted here. Their practices and procedures in place are recognized to be good for business precisely because they promote good customer relations.

As a practical matter, then, local telephone companies will come within the scope of proposed rule §308.7(c), which presumes that a customer will have properly initiated a billing review when a customer provides an oral notification with the basic information contemplated by §308.7(b)(1)-(3). Unfortunately, this means that if the local telephone company is a responsible billing entity, it will now be required to comply with the writing requirements of §308.7(d) if it does not credit the customer's account under §308.7(d)(2)(i). This will increase the local telephone company's costs unnecessarily, and will impose on the local telephone company a procedure that has not yet been shown to be required to deal with the concerns of the rulemaking.

If the Commission maintains its rule as it is proposed, the local telephone companies certainly will comply. However, given the fact that most local telephone companies are small in size, there may be options available that can achieve the same result intended by the Commission without automatically increasing costs by adding new dispute resolution requirements. An accommodation can be made.

Assuming that a local telephone company continues to accept oral notification of a billing dispute, that carrier should be able to enjoy the same presumption as the customer - that is, it should be presumed to have acknowledged the notification orally on the same call in which the customer is presumed to have orally initiated a billing review.

This would require a slight change in §308.7(d)(1). While USTA requests the Commission below to reassess the basic need for written explanation under § 308.7(d)(2)(ii) in the context of local telephone company-billed services, USTA expects that a procedure allowing oral notification to a local telephone company that initiates a billing review also could accommodate these other suggestions. This is possible even where such oral notification also will continue to trigger an obligation under §308.7(d)(2)(ii) for the appropriate billing entity to provide a written explanation when it determines that there was no billing error.

USTA also requests that the Commission change the requirements of §308.7(d)(2)(i) to eliminate any implication that the same billing entity who corrects the billing error and credits the account of the customer may have to provide any other notification required by that section, so it will match § 308.7(o).

A local telephone company's billing systems may correct for a billing error and credit the customer's account in a cost-efficient manner. However, it will be more

efficacious in situations in which there are multiple billing entities for these multiple billing entities to allocate these responsibilities. The billing entity who is not the local telephone company usually will be the entity in the best position to send a notice identifying the name, address and business telephone number of the vendor and the providing carrier that are the subject of the telephone-billed purchase, and also to send the statement that the vendor, its agent, or the providing carrier may not agree with a credit that is given, and thus may elect to pursue collection action separately.

The other (non-local telephone company) billing entity normally will be the